

Regular Session, 2010

HOUSE BILL NO. 1200

BY REPRESENTATIVE RICHARD

ELECTION CODE: Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

1 AN ACT

2 To amend and reenact R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4),  
3 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and  
4 1313(F)(2), (4), (5), (6), and (8) and to enact R.S. 18:1316(C) and 1319, relative to  
5 procedures for voter registration and voting for persons in the United States Service  
6 and persons residing outside the United States; to provide relative to electronic  
7 transmission of certain registration and election materials; to provide procedures for  
8 the execution and counting of transmitted election materials; to provide for use of the  
9 Federal Write-In Absentee Ballot; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4),  
12 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and 1313(F)(2), (4),  
13 (5), (6), and (8) are hereby amended and reenacted and R.S. 18:1316(C) is hereby enacted  
14 to read as follows:

15 §103. Personal appearance of applicant required; exceptions

16 \* \* \*

17 B. Any citizen of Louisiana who meets the qualifications set forth in  
18 R.S. 18:101 and who is a legal resident of this state, whether or not he has a place of  
19 abode in this state, but who is unable to appear in person to register because he is in

the United States Service, as defined in R.S. 18:1302, may register by mail using the state mail voter registration form in accordance with the following provisions:

(1) The applicant shall mail or transmit electronically a written request to register to the registrar of the parish of which he was a resident prior to entry into the United States Service.

(2) Upon receipt of the request, the registrar shall mail to the applicant at his United States Service address: or transmit electronically to the applicant the application form for registration.

~~(a) The application form for registration.~~

(3) Upon receipt of the document, the applicant shall:

\* \* \*

(b) Return the document by mail to the registrar.

\* \* \*

(4) Upon receipt of the completed document, the registrar shall: if the evidence establishes that the applicant meets the requirements for registration, register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his United States Service address.

~~(b) If the evidence establishes that the applicant meets the requirements for registration, the registrar shall register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his United States Service address.~~

\* \* \*

C. A person who meets the qualifications set forth in R.S. 18:101(E) who is unable to appear in person to register because he is residing outside the United States may register by mail using the state mail voter registration form in accordance with the following provisions:

(1) The applicant shall mail or transmit electronically a written request to register to the registrar of the parish in which he was last domiciled immediately prior to his departure from the United States.

(2) Upon receipt of such request, the registrar shall mail to the applicant at his address outside the United States: or transmit electronically to the applicant the application form for registration.

~~(a) The application form for registration.~~

(3) Upon receipt of the document, the applicant shall:

\* \* \*

(b) Return the document by mail to the registrar.

(4) Upon receipt of the completed document, the registrar shall: if the evidence establishes that the applicant meets the requirements for registration, register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his address outside the United States.

~~(b) If the evidence establishes that the applicant meets the requirements for registration, the registrar shall register the applicant and mail the notice of registration required by R.S. 18:109 to the applicant at his address outside the United States.~~

\* \* \*

§154. Records open to inspection; copying; exceptions

\* \* \*

C. Notwithstanding the provisions of this Section, neither the registrar nor the Department of State shall disclose the fact that a registered voter is entitled to assistance in voting or the social security number, driver's license number, day and month of the date of birth, ~~or mother's maiden name,~~ or electronic mail address of a registered voter or circulate the fact that registered voters are entitled to assistance in voting or the social security numbers, driver's license numbers, day and month of the dates of birth, ~~or mother's maiden names,~~ or electronic mail addresses of registered voters on commercial lists, except when voter registration data is transmitted to the office of motor vehicles of the Department of Public Safety and Corrections, for the purposes of verifying the accuracy and authenticity of the social security number, driver's license number, or full date of birth provided by the voter.

\* \* \*

### §1306. Preparation and distribution of absentee by mail and early voting ballots

A.(1) The secretary of state shall prepare absentee by mail and early voting ballots. The size and weight of paper, size and type of print, and other matters pertaining to absentee by mail and early voting ballots shall be determined by the secretary of state, subject to approval as to content by the attorney general. All ballots and paraphernalia of the same kind shall be identical as to size and weight of paper, size, type, and color of print, and other matters, except for ballots transmitted electronically to members of the United States Service, as defined in R.S. 18:1302, and to persons residing outside the United States.

\* \* \*

(4) The secretary of state shall prepare a special absentee ballot for candidates and constitutional amendments to be voted on in second party primary or general elections, subject to approval as to content by the attorney general. This special ballot shall only be for use by a qualified voter who is either a member of the United States Service or who resides outside of the United States. Such special ballot shall contain a list of the titles of all offices being contested at the primary or first party primary election and the candidates qualifying for the primary or first party primary election for each office, and shall permit the elector to vote in the second party primary or general election by indicating his order of preference for each candidate for each office. On the special ballot shall also be printed each constitutional amendment to be voted on in the second party primary or general election. To indicate his order of preference for each candidate for each office to be voted on in the election, the voter shall put the number one next to the name of the candidate who is the voter's first choice, the number two for his second choice and so forth so that, in consecutive numerical order, a number indicating the voter's preference is written by the voter next to each candidate's name on the ballot. A space shall be provided for the voter to indicate his preference for or against each constitutional amendment contained on the ballot. The voter shall not be required

1 to indicate his preference for more than one candidate on the ballot if the voter so  
2 chooses. The secretary of state shall also prepare instructions for use of the special  
3 ballot, including instructions for voting using an electronically transmitted ballot.

4 B.(1) The secretary of state shall prepare absentee by mail and early voting  
5 ballot envelopes, early voting applications, absentee by mail and early voting  
6 instructions, certificates, and other absentee by mail and early voting balloting  
7 paraphernalia consistent with the provisions of this Chapter, subject to approval of  
8 the attorney general as to content. Notwithstanding the provisions of R.S. 18:1316  
9 relating to distinguishing marks on absentee by mail and early voting ballots,  
10 absentee by mail voting instructions on absentee by mail ballots to be transmitted by  
11 facsimile in accordance with R.S. 18:1308(A)(1)(b) or transmitted electronically to  
12 members of the United States Service, as defined in R.S. 18:1302, and persons  
13 residing outside the United States shall stipulate that the voter may mark his ballot  
14 with a cross [X] mark or a check [T] mark as provided in Items (A)(2)(a)(i) and (ii)  
15 of this Section. When a court of competent jurisdiction, a registrar of voters, the  
16 secretary of state, or other competent authority determines that there exists a literate  
17 linguistic minority equal to more than five percent of the total population of any  
18 parish, the secretary of state, with approval of the attorney general as to content, shall  
19 prepare and furnish absentee by mail and early voting ballots, absentee by mail and  
20 early voting instructions, and certificates in the minority language in sufficient  
21 quantity to provide to each absentee by mail and early voter requesting voting  
22 material in that language.

23 \* \* \*

24 §1308. Absentee voting by mail

25 A.

26 \* \* \*

27 (2)(a) With respect to ~~persons~~ registered voters on active duty in the United  
28 States military service or outside the continental boundaries of the United States,  
29 these materials shall be mailed as provided by the Uniformed and Overseas Citizens

1 Absentee Voting Act (39 U.S.C. 3406 and 42 U.S.C. 1973ff et seq.) and shall include  
2 both the primary or first party primary election ballot and the special ballots for the  
3 general election or the second party primary election and the general election.

4 (b) Notwithstanding the provision of Subparagraph (a) of this Paragraph,  
5 with respect to registered voters on active duty in the United States military service  
6 or outside the continental boundaries of the United States, these materials may be  
7 electronically transmitted for a federal general election and must include the ballot  
8 for the federal general election.

9 (c) ~~The~~ For mailed ballots, the envelope mailed to the voter shall contain six  
10 envelopes, three of which shall be the ballot envelopes and three of which shall be  
11 return envelopes. Each return envelope shall bear the official title and mailing  
12 address of the registrar, whether it contains a primary, first party primary, second  
13 party primary or general election ballot, and the name, return address, and precinct  
14 or district number of the voter. The voter shall return his voted primary or first party  
15 primary election ballot and special ballots for the general election or the second party  
16 primary and the general election to the registrar in the appropriate envelopes. The  
17 registrar of voters shall not mail a regular general election or the second party  
18 primary and general election absentee ballot to a member of the United States  
19 Service or to persons residing overseas if the registrar has mailed a special ballot, as  
20 provided herein, to such voter. The envelopes for the special ballots shall contain  
21 language on the outside of the envelope ~~which will~~ that clearly ~~designate~~ designates  
22 which envelope is to be used for return of the second primary election ballot and  
23 which envelope is to be used for return of the general election ballot.

24 (d)(ii) For an electronically transmitted federal general election ballot, the  
25 registrar shall transmit the ballot and certificate to the voter. The voter shall place  
26 the voted ballot in an envelope labeled "Security Envelope", seal the envelope, and  
27 place the sealed "Security Envelope" and the completed and signed certificate in  
28 another envelope for transmittal by mail to the parish registrar of voters.

(ii) The voter may use the "Security Envelope" and ballot transmittal envelope from the Federal Write-in Absentee Ballot to mail the federal general election ballot and certificate to the parish registrar of voters.

(b) (e) Notwithstanding the provisions of ~~Subparagraph~~ Subparagraphs (A)(2)(a), (b) and (c) of this Section, if ~~the~~ a voter who is on active duty in the United States military service or residing outside the United States continental boundaries ~~and who~~ and who feels he will not have time to vote timely by mail, ~~the voter~~ may request that the registrar transmit to him by facsimile a ballot, including the affidavit, or a second ballot, as the case may be, and the registrar shall do so ~~if a facsimile machine is available for his use~~. The voter may then either mail or transmit by facsimile his voted ballot, including the affidavit, back to the registrar at the facsimile machine number designated by the registrar. If the voter chooses to transmit his voted ballot to the registrar by facsimile, the documents to be transmitted shall contain the following statement: "I understand that by faxing my voted ballot I am voluntarily waiving my right to a secret ballot." This statement shall be followed by the voter's handwritten signature, date, and social security number. Upon receipt of the transmittal, the registrar shall place the voted ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The registrar and his staff shall take the steps necessary to keep the voted ballots received by facsimile as confidential as practicable.

(f) The secretary of state as the chief election officer of the state shall take all actions reasonably necessary to allow persons residing outside the continental boundaries and persons on active duty in the armed forces to vote according to the Uniformed and Overseas Citizens Absentee Voting Act or otherwise during a period of declared emergency, whether by mail, facsimile, or other means of transmission of the ballot, notwithstanding any provision of this Code to the contrary.

\* \* \*

§1308.2. Voting absentee by mail for presidential candidates and congressional  
candidates

A.~~(1)~~ At least forty-five days before each presidential election, the secretary of state shall deliver to each registrar a sufficient quantity of absentee by mail ballots, envelopes, certificates, and instructions to be used only by members of the United States service, as defined in R.S. 18:1302, and persons residing outside the United States who are registered to vote pursuant to R.S. 18:103(C), for the election of the president of the United States, including ballots, certificates, and instructions to be electronically transmitted to the voters. The absentee by mail ballot shall be prepared according to law and shall contain only presidential candidates. The absentee by mail ballot envelope shall be marked "Presidential Ballot Only".

(2) At least forty-five days before each congressional general election, the secretary of state shall deliver to each registrar a sufficient quantity of special absentee by mail ballots as provided in R.S. 18:1306(A)(4), envelopes, certificates, and instructions to be used only by members of the United States service, as defined in R.S. 18:1302, and persons residing outside the United States who are registered to vote pursuant to R.S. 18:103(C), for the election of the members of congress, including special ballots, certificates and instructions to be electronically transmitted to the voters.

B. Voting absentee by mail for presidential and congressional candidates as provided in Subsection A hereof shall be conducted pursuant to the provisions of this Chapter governing absentee by mail voting generally.

\* \* \*

§1310. Execution of certificate; marking of ballot; casting vote; assistance

A.(1) When a voter receives the absentee voting materials by mail, he first shall fill in all blanks on the certificate on the ballot envelope flap. The voter then shall mark the ballot according to the printed instructions on its face. Then the voter shall place the voted ballot in the envelope, seal the envelope, and sign the certificate on the ballot envelope flap.



(2) When a member of the United States service, as defined in R.S. 18:1302, or a person residing outside the United States who is registered to vote receives the absentee voting materials by electronic transmission, he first shall print all documents and fill in all blanks on the certificate. The voter then shall mark the ballot according to the printed instructions on its face. Then the voter shall place the voted ballot and completed certificate in the envelope as provided in R.S. 18:1308(A)(2)(d).

\* \* \*

§1313. Tabulation and counting of absentee by mail and early voting ballots

\* \* \*

F. The procedure for counting absentee by mail or early voting ballots shall be as follows:

\* \* \*

(2) The board shall announce the name of each absentee by mail or early voting voter and the ward and precinct where he is registered to vote, and shall compare the name on the early voting application or on the flap of the envelope or certificate attached to the envelope containing the absentee by mail or early voting ballot with the names on the list of absentee by mail or early voting voters and on the supplemental list.

\* \* \*

(4) If the board determines that an absentee by mail or early voting ballot is valid, a member of the board shall write the word "absentee" on the list beside the name of the voter as it appears on the list or supplemental list of persons who voted absentee by mail and shall sign his name in the space therefor which shall be provided on the list for the purpose. If applicable, a member of the board shall tear the flap from the envelope or remove the certificate attached to the envelope containing the absentee by mail or early voting ballot and leave the envelope sealed.

(5) If a majority of the members of the board determine that an absentee by mail or early voting ballot is invalid, the members shall leave the flap on the

1 envelope or certificate attached to the envelope containing the absentee by mail or  
2 early voting ballot, leave the envelope sealed, and shall write the word "rejected",  
3 together with the reasons for rejecting the ballot, across the envelope containing the  
4 ballot or across the early voting application. The rejected absentee by mail and early  
5 voting ballots and early voting applications shall be replaced in the special absentee  
6 by mail and early voting ballot envelope. No rejected absentee by mail or early  
7 voting ballot shall be counted.

8 (6) After the validity of all absentee by mail and early voting ballots has  
9 been determined, the members of the board shall place the valid early voting  
10 applications and the flaps or certificates removed from the valid absentee by mail  
11 and early voting ballots in the envelope provided for that purpose and seal the  
12 envelope. Two of the members shall execute the certificate on the envelope.

13 \* \* \*

14 (8) The board shall, in accordance with the requirements of R.S. 18:1316,  
15 reject any ballot which contains a distinguishing mark or feature making the ballot  
16 susceptible of identification. However, a ballot shall not be rejected as containing  
17 a distinguishing mark if the ballot was transmitted electronically to a member of the  
18 United States Service, as defined in R.S. 18:1302, or a person residing outside the  
19 United States.

20 \* \* \*

21 §1316. Rejection of ballot having distinguishing marks

22 \* \* \*

23 C. A ballot transmitted electronically to a member of the United States  
24 Service, as defined in R.S. 18:1302, or a person residing outside the United States  
25 shall not be considered as having distinguishing marks.

26 Section 2. R.S. 18:1319 is hereby enacted to read as follows:

27 §1319. Use of Federal write-in absentee ballot; presidential and congressional  
28 elections

1           A member of the United States Service, as defined in R.S. 18:1302, or a  
 2           person residing outside the United States who made a timely application to vote  
 3           absentee by mail as provided in R.S. 18:1307(C) and who did not receive absentee  
 4           by mail ballots may use the Federal Write-In Absentee Ballot to vote in presidential  
 5           elections and congressional elections. The Federal Write-In Absentee Ballot shall  
 6           be submitted, processed, and counted in the manner provided in this Chapter.

7           Section 3.(A) This Section and Section 1 of this Act shall become effective upon  
 8           signature of this Act by the governor or, if not signed by the governor, upon expiration of  
 9           the time for bills to become law without signature by the governor, as provided by Article  
 10          III, Section 18 of the Constitution of Louisiana. If this Act is vetoed by the governor and  
 11          subsequently approved by the legislature, this Section and Section 1 of this Act shall become  
 12          effective on the day following such approval.

13          (B) Section 2 of this Act shall become effective December 31, 2010.

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#### DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Richard

HB No. 1200

**Abstract:** Provides relative to procedures for registration and voting for persons in the U.S. Service and persons residing outside of the U.S.

Present law (R.S. 18:103) provides procedures for a person who meets the qualifications in present law to vote and who is a legal resident of the state, but who is unable to appear in person to register because he is in the U.S. Service to register by mail. Provides for the mailing of the application form to the person. Requires the person to complete the form and return the form to the registrar.

Proposed law requires that the form be returned to the registrar by mail. Otherwise retains present law and additionally provides for electronic transmission of the application form.

Present law (R.S. 18:154) prohibits the registrar and the Dept. of State from disclosing certain voter information. Proposed law retains present law and adds the electronic mail address of a voter to the list of information that may not be disclosed.

Present law (R.S. 18:1306) provides relative to the preparation of ballots and election paraphernalia. Requires ballots and paraphernalia of the same kind to be identical as to size and weight of paper, size, type, and color of print, and other matters. Proposed law provides an exception to present law for ballots transmitted electronically to members of the U.S. Service and persons residing outside the U.S.

Present law provides for a special ballot to be used by members of the U.S. Service and persons residing outside the U.S. Requires the secretary of state to prepare instructions for use of the special ballot. Proposed law adds a requirement that the secretary of state also prepare instructions for voting using an electronically transmitted ballot.

Present law (R.S. 18:1308) provides for the mailing of voting materials to members the U.S. Service and persons residing outside the U.S. Specifies the materials that must be sent.

Proposed law provides for the electronic transmission of these materials, including the ballot for a federal general election. Provides specific instructions for mailing the marked ballot and other materials to the registrar.

Present law (R.S. 18:1308.2) requires the secretary of state at least 45 days before each presidential election to deliver to each registrar a sufficient quantity of absentee by mail ballots, envelopes, certificates, and instructions to be used by members of the U.S. Service and persons residing outside the U.S. for election of the president.

Proposed law retains present law and includes in the materials required to be delivered ballots, certificates, and instructions to be electronically transmitted. Additionally provides that the materials required to be delivered prior to presidential elections shall also be delivered to each registrar at least 45 days prior to each congressional general election.

Present law (R.S. 18:1310) provides requirements for executing absentee by mail voting materials. Proposed law additionally provides instructions for executing materials electronically submitted to members of the U.S. Service and persons residing outside the U.S.

Proposed law provides that a ballot shall not be rejected as containing a distinguishing mark if the ballot was transmitted electronically to a member of the U.S. Service or a person residing outside the U.S.

Proposed law provides that a member of the U.S. Service or a person residing outside the U.S. who made a timely application to vote absentee by mail as provided in present law and who did not receive absentee by mail ballots may use the Federal Write-In Absentee Ballot to vote in presidential elections and congressional elections. Provides that the Federal Write-In Absentee Ballot shall be submitted, processed, and counted in the manner provided in present law provisions relative to absentee by mail and early voting.

Effective upon signature of governor or lapse of time for gubernatorial action, except that provisions relative to the Federal Write-In Absentee Ballot are effective Dec. 31, 2010.

(Amends R.S. 18:103(B)(1), (2), (3)(b) and (4) and (C)(1), (2), (3)(b), and (4), 154(C), 1306(A)(1) and (4) and (B)(1), 1308(A)(2), 1308.2, 1310(A), and 1313(F)(2), (4), (5), (6), and (8); Adds R.S. 18:1316(C) and 1319)